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TO RUEHOR/AMEMBASSY GABORONE PRIORITY 8927
INFO SOUTHERN AF DEVELOPMENT COMMUNITY COLLECTIVE PRIORITY

UNCLAS SECTION 01 OF 03 STATE 131183

SIPDIS

E.O. 12958: N/A
TAGS: [BC](#) [EAID](#) [KTIA](#) [MARR](#) [PREL](#) [MASS](#) [SADC](#)
SUBJECT: END USE, SECURITY, AND RETRANSFER AGREEMENT WITH
THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (SADC)

REF: A. GABORONE 963
[1](#)B. STATE 7798
[1](#)C. STATE 18852

SUMMARY

[1](#)1. (U) This is an action request (see paragraphs 2-5). The Department requests Post provide appropriate SADC officials with the proposed text for a Section 505 agreement. Section 505 of the Foreign Assistance Act of 1961, as amended, requires that the USG obtain end-use, security, and retransfer assurances from foreign governments and international organizations before furnishing them with any defense articles, related training, or other defense services on a grant basis. The United States and the Southern African Development Community (SADC) have not yet entered into an agreement satisfying this requirement. End Summary.

ACTION REQUEST

[1](#)2. (U) The Department requests Post present appropriate SADC officials with the proposed text of an agreement (provided at paragraph 7), using talking points provided in paragraph 6 to explain the legal requirements and encourage SADC to enter into an end-use, security and retransfer agreement.

[1](#)3. (U) Post should present the draft reply dip note (paragraph 8) that, if presented by SADC to the USG, would bring the agreement into force.

[1](#)4. (U) Post should seek Department guidance if the SADC Secretariat proposes a reply that departs from this approach or in any way rejects the conditions set forth in the U.S. note, Post should seek Department guidance.

[1](#)5. (U) The text of the reply should be transmitted via cable slugged to PM/RSAT, PM/PPA, AF/RSA, AF/S, L/PM, and L/T. Please pouch the original/original note together with a certified copy of the Embassy's note, to L/T (Rm. 5420, HST Attn: Daphne Cook) via registered pouch, and include the pouch registration number in the cable. To expedite the review of any exchange of notes, Post should fax or e-mail copies of the notes as soon as possible to Daphne Cook, unclassified fax: 202-647-9844.

End Action Request.

Talking Points

[1](#)6. (U) Post is requested to draw on the talking points below when presenting the proposed agreement to SADC:

-- The USG is prepared to provide defense articles and defense services to the Southern African Development

Community. A U.S. Presidential Determination recognized that "the furnishing of defense articles and defense services to the Southern African Development Community (SADC) will strengthen the security of the United States and promote world peace."

-- In order to be eligible under U.S. law to receive potential assistance, SADC and the U.S. Government must enter into an agreement regarding the end-use, security, and retransfer of any such articles and services.

-- We have prepared a draft text that satisfies this legal requirement. This is the standard agreement that we have reached worldwide with other recipients of U.S. grant defense articles and services.

-- The agreement says in effect that SADC pledges to use the articles and services for the purposes specified, and that SADC will not transfer or dispose of the equipment or technology without advance written permission from the United States government.

-- In addition, these end-use assurance agreements are an integral part of preventing the proliferation of small arms and light weapons, which SADC members also support.

-- We hope SADC will find this text acceptable and be able to

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reply with the proposed draft response, which would enter the agreement into force.

Agreement Text and Reply Diplomatic Notes

17. (U) The following text should be presented to SADC via diplomatic note:

The Embassy of the United States of America presents its compliments to the Secretariat of the Southern African Development Community and has the honor to refer to earlier discussions between the United States of America and the Southern African Development Community regarding grants under the Foreign Assistance Act of 1961, as amended, or successor legislation, and the furnishing of defense articles, related training, and other defense services, from the United States of America to the Southern African Development Community.

In accordance with these discussions, it is proposed that the Southern African Development Community agree:

1A. That unless the consent of the Government of the United States of America has been first obtained the Southern African Development Community shall not:

(I) Permit any use of such defense articles, related training, including training materials, or other defense services by anyone not an officer, employee, or agent of the Southern African Development Community;

(II) Transfer, or permit any officer, employee or agent of the Southern African Development Community to transfer, such defense articles, related training, including training materials, or other defense services by gift, sale or otherwise; or

(III) Use, or permit the use of, such defense articles, related training, including training materials, or other defense services for purposes other than those for which provided;

1B. That such defense articles, related training, including training materials, or other defense services shall be returned to the Government of the United States of America when they are no longer needed for the purposes for which

they were furnished, unless the Government of the United States of America consents to another disposition;

¶C. That the net proceeds of sale received by the Southern African Development Community in disposing of, with prior written consent of the Government of the United States of America, any defense article furnished by the Government of the United States of America on a grant basis, including scrap from any such defense article, shall be paid to the Government of the United States of America;

¶D. That the Southern African Development Community shall maintain the security of such defense articles, related training, including training materials, and other defense services; that it shall provide substantially the same degree of security protection afforded to such defense articles, related training, including training materials, and other defense services by the Government of the United States of America; that it shall, as the Government of the United States of America may require, permit continuous observation and review by, and furnish necessary information to, representatives of the Government of the United States of America with regard to the use thereof by the Southern African Development Community;

¶E. That the Government of the United States of America may also, from time to time, make the provision of articles and services furnished under other authority (except the United States Arms Export Control Act) subject to the terms and conditions of the agreement proposed herein. (Transfers under the United States Arms Export Control Act shall continue to be governed by the requirements of that Act and United States regulations applicable to such transfers.)

The Southern African Development Community's note stating that the foregoing is acceptable to the Southern African Development Community shall, together with this note, constitute an agreement between the Government of the United States of America and the Southern African Development Community, which shall enter into force on the date of the Southern African Development Community's note.

End Agreement Text.

¶8. (U) Begin text of proposed reply note:

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(Complimentary opening) and acknowledges receipt of the Embassy's Note No. (insert number), dated (insert date), which reads as follows:

(quote in entirety the text of U.S. note provided in paragraph 8)

The Secretariat of the Southern African Development Community has the honor to confirm that the proposals set forth in the Embassy's note and this note in reply shall constitute an Agreement between the U.S. Government and the Southern African Development Community which shall enter into force on this date.

End text of reply note.

Points of Contact

¶9. (U) The point of contact for legal questions on section 505 is L/PM Scott Vesel or Selene Ko. The points of contact for political-military issues are Amy Van Buren in PM/RSAT and Rachel Schaab in PM/PPA.
CLINTON